

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested. Claims 1-3, 56, 60-64, 79-98 and 124-137 are currently pending in the application. Claims 4-51, 57-59, 65-78, 99-124 and 138-144 have been canceled without prejudice.

Claims Rejections 35 U.S.C. §112

Claims 1, 31, 33, 46, 55, 79, 80, 89, 96, 125, 138 and 140 were rejected under 35 U.S.C 112, first paragraph, as failing to comply with the written description.

The Examiner argues that the sentence "*at the instigation of said user client*" discloses a subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Based upon the Examiner remarks, Applicant amended Claims 1, 55, 79, 80, 89, 96, and 125, in the light of the description, in order to clarify the limitations of these claims. Claims 30, 31, 46, 138 and 140 The relevant limitation of the claim now defines: "... *for obtaining, during a direct communication interaction initiated by said user client with said server according to said direct communication interaction, from the current vicinity of said user client, network node information, said network node data gatherer being placed in said server*".

The amended limitation which is provided in amended Claims 1, 55, 79, 80, 89, 96, and 125 is described, *inter alia*, in original page 29, lines 19-25 and page 10 lines 1-10 of the present application stating:

"[0197] A vendor 101 receives an interaction request from a user 102 via the Internet or like electronic connection. The user 102 connects via DNS 103 database and a random host of his internet service provider or ISP 107. The vendor has his own DNS 104. As will be described below, the user 102 is persuaded to give to the vendor 101 the IP address of his ISP 103.

[0198] That is to say, to obtain the IP address of ISP 103, as part of the interaction, the user/consumer 102 is preferably directed by the site of the vendor 101 to a page, or to a module within the current page or to any element usable with the consumer's browser, which preferably contains in its address a host name composed from symbols under the constraints of existing or future BIND standard infrastructures ...".

As the server of the vendor 101 receives an interaction request from the user client it is clear that the network node information is obtained *during a direct communication interaction with the server*. As the IP address of the ISP of the user client is used to determine the geographic location of the user client, it is clear that the network node information is determined *according to said direct communication interaction*. It should be noted that it is clear that the network node data gatherer is placed in the server from Fig. 1 and the description thereof.

Therefore, it is clear that the relevant limitation is definite in view of the general guidelines contained in the specification (*In re Mattison*, 509 F.2d 563, 184 USPQ 484 (CCPA 1975)). It is therefore submitted that Claims 1, 55, 79, 80, 89, 96, and 125 as amended are allowable in respect of 35 U.S.C. §112, first paragraph.

Claims Rejections 35 U.S.C. §102

Claims 1-3, 7-30, 42-45, 49-51, 55-56, 60-78, 86-89, 92-98, 101-124, 138-141, and 143-144 are rejected under 35 U.S.C. §102(e) as being anticipated by Parekh et al. (hereinafter: *Parekh*) U.S. Patent No. 6,757,740. Claims 7-30, 65-78, and 101-124 have been canceled without prejudice.

In the light of the Examiner's remarks, Applicant has amended independent Claims 1, 55, 79, 80, 89, 96, and 125, in order to further distinguish the present invention in the light of the prior art. Claims 31, 33, 46, 138, and 140 have been canceled without prejudice. Accordingly, Applicant believes that *Parekh* does not anticipate all the limitations of the amended independent Claims 1, 55, 79, 80, 89, 96, and 125 (hereinafter: The amended independent Claims).

Reference is now made to amended Claim 1 which now defines "*a network node data gatherer for obtaining, during a direct communication interaction with the server initiated by said user client and according to said direct communication interaction, from the current vicinity of said user client, network node information*".

The Examiner is of the opinion that *Parekh* discloses a system and a method for determining a location of a user client in an electric interaction with a server over a network. The Examiner further believes that *Parekh* comprises a network data gatherer for obtaining network node information from the vicinity of the user client.

Though Applicant recognizes that both the present invention and *Parekh* discloses a system and a method for determining a location of a user client in an electric interaction with a server over a network, as noted by the Examiner, Applicant believes that the amended independent Claims are distinguished over *Parekh's* teachings.

One of the distinguishing features relied upon is that the *network node data gatherer device* of the amended independent Claims is placed on the server that communicates with the user client and obtains the network node information during a direct communication interaction initiated by said user client and according to said direct communication interaction.

As the *network node data gatherer device* obtains the *network node information* from the server that communicates with the user client, during the direct communication interaction, no communication with additional systems or databases is established. The *network node data correlator* of the claimed invention can correlate the *network node information* with a *network node location map*, thereby to provide the server with a current location for said user client which is based on the current vicinity of said user client which any dependency in an additional component or record.

In contrast with the claimed invention, the disclosure of *Parekh* for determining, collecting, and using geographic locations of internet users is not based on real time information which is based on direct communication interactions with the user clients, but on records from a predefined database of geographic locations which is stored in a designated central location or in a related web site, see *Parekh's* Abstract. In *Parekh*, if no record is available, websites are designed to request a central database to track an Internet user's traffic on the Internet whereby a profile can be generated and not to directly obtain the geographic information from ongoing communication interactions or at least not from direct interactions. As mentioned in the section cited by the Examiner, the database is used by a certain server or a website to identify the geographic location of a visitor or user, see column 11, lines 36-54 and the Abstract of *Parekh*. The geographic locations, which are stored in *Parekh's* database, are gathered, at predefined time periods during a collection process, by a designated collection system, see column 9 line 53 to column 19 line 20 of *Parekh*. A separate determination system is used to receive the geographic information about the user, by requesting it from the designated collection system, and to provide the geographic information to the requesting website or server, in a process which is independent from the collection process. The collection process is depicted in Figs. 2 box 108 and 3 box 116 and the operation of the determination system is separately depicted in Fig. 5. As depicted in Fig. 5, if the information is not available in the *Parekh* database, as determined at box 124 of Fig. 5, then at box 127 of Fig. 5 the *Parekh* system informs the collection system that the information is not known and the collection process initiates a collection process for obtaining information about the user client. Therefore, it is clear that *Parekh* does not teach or imply the *network node data gatherer*

device of the claimed invention that is designed to obtain current information about the geographic location of the user, based upon current and direct communication interaction with the user client. In the present invention, unlike in *Parekh*, the geographical information is obtained without any accessing a user geographical information database or requesting an external collecting system to acquire the user geographical information.

It is known that a claim is anticipated only if each and every element as set forth in the Claim is found, either expressly or inherently described, in a single prior art reference, See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As the aforementioned distinguishing feature of amended Claim 1 is not found, either expressly or inherently described in by *Parekh*'s disclosure, it is clear that amended Claim 1 is not anticipated by it.

Based on the aforementioned difference between the present invention and by *Parekh*, as elaborated hereinabove, Claims 31, 33, 46, 55, 79, 80, 89, 96, 125, 138 and 140 are amended, *mutatis mutandis*, as above and are now believed to be novel. The Applicant further believes that the dependent claims are not anticipated, as they are dependent on the allowable independent claim.

It should be noted that none of the citations mentioned by the Examiner, or the combination thereof, discloses an apparatus for determining a location of a user client in an electronic interaction with a server over a network with a *network node data gatherer device*, as defined by present independent claims.

The following section is intended to emphasize the inventiveness of the present invention in the light of the Examiner's remarks and the amended independent Claims.

As described above, one distinguishing feature of the claimed invention over *Parekh* is related to the *network node data gatherer device* that is used to obtain *network node information* which is based on the current vicinity of said user client.

Parekh's invention is related to collection and determination systems which are used to provide geographic information about users to websites or other requestors, see lines 39-50 column 15 of *Parekh*. As such, the architecture of *Parekh*'s system is designed to collect geographic information about the user and to receive requests for geographic information of a user client. Contrary, the claimed invention discloses a dynamic system which is designed to obtain a current geographic location of a user client during a direct communication interaction initiated by him. Such a difference is substantial as it changes the architecture of the whole system. A system according to the invention as claimed in the amended independent claims cannot be based on predefined databases, as it analyzes information from a concurrent

communication interaction, and therefore is not designed for collecting and storing information. Such a system has to determine the geographic location of the user client based upon a current interaction with the user client as no data about his current location has been collected and stored. For example, as described in the present application, one embodiment of the present invention constructs unique DNS addresses and redirects the user client to them in real time. Such a process causes the user client to prompt a DNS server, which is in the user client's ISP POP domain, to contact another DNS server, and hand the last constructed unique DNS address. The address then correlates the user client with the DNS server in the user client's ISP POP. In the light of the above, Applicant believes that *Parekh's* system, which is designed to collect geographical information using a distinct collection system cannot be easily modified to function as the present invention.

Based on the aforementioned differences between the present invention and *Parekh*, as elaborated hereinabove, the amended independent Claims are now believed to be novel, and inventive. Applicant further believes that dependent claims are not anticipated or obvious, as they are dependent on the allowable independent claim.

Claims Rejections 35 U.S.C. §103

Claims 31, 33, 35-41, 79-85, 90-91, 125-129, 133-137 and 142 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Parekh* in view of Mashinsky *et al* U.S Patent No. 6,088,436. Claims 52-54 and 130-132 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Parekh* in view of Mashinsky and Rudinsky *et al* U.S Patent Application No. 2002/0090060. Claims 31, 33, 35-41, and 142 have been canceled without prejudice.

Claims 79 and 125 are amended, *mutatis mutandis*, as Claim 1 above and are now believed to be novel and unobvious. It is believed that Claims 80-85, 90-91, 52-54, 130-132, 126-129, and 133-137 are now allowable as being dependent from allowable amended independent Claims.

All of the issues raised by the Examiner have been dealt with. In view of the foregoing, it is submitted that all the Claims 1-3, 52-56, 60-64, 79-98 and 125-137 now pending in the application are allowable over the cited reference. An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,



Martin D. Moynihan
Registration No. 40,338

Date: November 30, 2006

Encl.:

Petition for Extension of Time for three (3) months
Request for Continued Examination (RCE)